

AGENDA
FREMONT RECREATION COMMISSION SPECIAL MEETING
CITY COUNCIL CHAMBERS
3300 CAPITOL AVENUE, BUILDING "A"
FREMONT, CALIFORNIA 94538
APRIL 17, 2013

- 1. CALL TO ORDER AND SALUTE TO THE FLAG**
- 2. ROLL CALL**
- 3. CONSENT CALENDAR**
- 4. APPROVAL OF MINUTES** – February 6, 2013
- 5. ORAL COMMUNICATIONS**
- 6. STAFF PRESENTATIONS/CEREMONIAL ITEMS**

Our dance program is celebrating its 50th year in June! Recreation Supervisor I Debra Crenshaw will give a brief history of the dance program from its beginning in 1963 to where the program is now in 2013.

7. ACTION ITEMS

7.1 CONSIDER ABANDONMENT OF PARK LAND ON A PORTION OF PALM AVENUE PARK SITE AND THE DEDICATION OF PARK LAND ON PROPERTY AT ISHERWOOD WAY.

Consider the Abandonment of 7 Acres of Park Land at the 19.8 Acre Palm Avenue Park Site (Located At 42410 Palm Avenue), and the Evaluation of 14.6 Acre Site (Located at Isherwood Way) According to the "Criteria for Selection of Park Sites" and Other City Policies Pertaining to the Dedication of Park Land.

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Executive Summary: This report contains an assessment of approximately 7 acres of vacant land at the Palm Avenue park site for abandonment as park land, because the land is not convenient or

necessary for park purposes based on existing inventory of park land. This report also contains an assessment of 14.6 acres of vacant land at Isherwood Way according to the site selection criteria in the City's General Plan for the possible dedication as park land. The abandonment of park land at Palm Avenue and the dedication of park land at Isherwood would increase the overall park land inventory by 7.6 acres. Approximately thirteen (13) acres of land will remain dedicated to park purposes at Palm Avenue. This report includes a recommendation that the Recreation Commission recommend to the City Council to proceed with a public hearing notice and abandonment proceedings for 7 acres at Palm Avenue and find that the 14.6 acres of property at Isherwood Way is in conformance with the General Plan criteria.

Background: On May 25, 1999, City Council approved the purchase of 19.8 acres at Palm Avenue for park purposes. The site was considered one of the City's last opportunities to accommodate a Citywide Community Park that supported athletic fields. The City now has a new opportunity at Pacific Commons for the location of high intensity athletic uses, which is farther away from residential areas than the Palm Avenue site. Should the City abandon 7 acres of park land at Palm Avenue, the remaining 13 acres at the Palm Avenue site would still support a smaller, less intense park, which would better serve the adjacent existing and proposed neighborhoods without the potential conflicts associated with large athletic facilities. The abandonment proceedings must also comply with the Municipal Abandonment Law of 1939 and the Park Preservation Act of 1971.

The proposed dedication of park land at Isherwood Way must comply with the Parks and Recreation Master Plan and the Parks and Recreation Chapter of the General Plan. The "Criteria for Selection of Park Sites" of the Parks and Recreation Master Plan sets forth the requirements used to evaluate parcels for acquisition or dedication as city-owned park land. One criterion requires the Recreation Commission to review and make recommendations to the City Council about any parcel under consideration for inclusion into Fremont's park system. The specific criteria which are evaluated for the Isherwood site in this report are: conformance with City of Fremont policies, physical configuration, topography, encumbrance, access, environmental constraints, and compatibility with surrounding land uses, and operations, maintenance and supervision costs and impacts. The report concludes with a summary and recommendation.

Abandonment of 7 acres at Palm Avenue: The abandonment of 7 acres of land at the 19.8 acre Palm Avenue park site is subject to the Municipal Park Abandonment Law of 1939. Upon a recommendation from the Recreation Commission, the City Council must adopt a Resolution of Intent to abandon park land and then notice a public hearing to take place no sooner than 30 days after, thereby giving the public the opportunity to comment on the proposed action. The abandonment is supported by the findings that the 7 acres at the rear of the site is less convenient and no longer necessary for park purposes.

The rear 7 acres of the Palm Avenue property are less convenient and no longer necessary for park purposes. Since the purchase of the 19.8 acre Palm Avenue site in 1999 the site remains undeveloped and the City has no development plan for the park. In addition, a 40 acre site in Pacific Commons at the end of Auto Mall Parkway was recently acquired for the development of a Citywide Sports Park. At the December 19, 2012 meeting, the Recreation Commission

recommended City Council include \$1 Million of Park funds toward the initial design and study for the Pacific Commons park site. With the pending development of the Pacific Commons park site, the Palm Avenue site no longer needs to support large scale athletic facilities, but would still compliment the residential area as a park with less intense uses and no sports lighting. Additionally, the Palm Avenue site has an adjacent approved development for 42 homes, currently under Improvement Plan review by City staff. The increase in residential homes around the park site will also likely make it difficult for the City to gain community support for future sports facilities with lights and increased traffic in the area.

The remaining (approximately) 13 acres at Palm Avenue would be the best portion of the site for a future park. The 7 acres to the rear of the site is less desirable than the front 13 acres for park purposes given the increase in residential development in the rear and the superior site access from the front directly off of Palm Avenue. The 7 acres proposed to be abandoned as a park land would serve as a logical and complimentary expansion of the adjacent proposed residential development. The City could use the proceeds of the sale of 7 acres to leverage development opportunities in priority areas of the City such as Downtown and Warm Springs. The remaining 13 acres at Palm Avenue would be located directly adjacent to Palm Avenue and provide the best access to all surrounding neighborhoods if developed as a lower intensity park (see Exhibit A). The park could include facilities such as picnic areas, sports turf and play areas.

Dedication of 14.6 Acres of Park Land at Isherwood Way: The dedication of 14.6 acres of city owned land as park land is subject to the criteria for the selection of park sites identified in the General Plan and the Park and Recreation Master Plan along with other City policies. The property is located on Isherwood Way. The property includes portions of 4 parcels and all of a 5th parcel, all of which are owned by the City of Fremont. The property is bordered by Isherwood Drive to the South, Union City and the Old Alameda Creek to the east and north, and residential development to the west. Across Isherwood Way from the property is the East Bay Regional Park District Quarry Lakes Park. (See Exhibit B).

The property is wrapped on two sides by a portion of the original Alameda Creek. In 1960 the Alameda County Flood Control realigned the Alameda Creek and rerouted storm flows to the new Alameda Creek Channel alignment running from Mission Boulevard to the Bay. The remaining portion of original creek adjacent to the Isherwood site continues to carry natural creek flows and is the only remaining natural section of the creek in Fremont. The historic alignment of the Alameda Creek has contributed to the soils in this area not being desirable for building construction.

Conformance with City Policies: The sites General Plan designation is Open Space/Parks on four of the parcels and Low Density Residential, 2.3-8.7 units per acre. The zoning is Planned District (P-76-7), Residential. The zoning ordinance allows public parks in residential zones as a conditionally permitted use. After the property is dedicated, the City would bring a General Plan amendment to designate the one parcel Open Space/Park along with a parcel map to City Council.

The proposed project will not conflict with any applicable land use plan, policy, or regulation of a General Plan designation. The City of Fremont has primary jurisdiction over the project site

although Alameda County Flood Control has jurisdiction over the adjacent bypass channel partially located along the eastern border of the site.

Following dedication of the site as park land, the City may choose to move forward with design and development of a neighborhood park. The General Plan describes a neighborhood park as follows:

“Neighborhood parks provide for the daily recreation needs of residents in the area of the park. They contain limited active recreation opportunities such as a hard surface playing courts and multipurpose fields. Recreation activities such as picnicking, strolling and informal play can also be accommodated in neighborhood parks. Unlike citywide parks, neither on-site parking nor lighting is provided.”

The proposed future neighborhood park use may be considered appropriate for the site due to its easy access from residential areas and level topography, which allows for efficient park use of land. The existing bike trail and connections to the adjacent Alameda Creek bike trail network and the passive natural setting adjacent to the Alameda Creek bypass channel make this an ideal location for the lower impact uses associated with a neighborhood park.

The proposed project is consistent with the following General Plan goals and policies:

General Plan Goals/Policies

- Goal 2-1: City form and structure
 - Policy 2-1.4: Neighborhoods with safe and convenient access to services, schools and parks
- Goal 2-2: Directing change to ensure continued availability of public services, and also protects the natural environment.
 - Policy 2-2.12: Land banking to utilize vacant or underutilized land for long term development of public facilities, parks and other uses for the public benefit.
- Goal 2-3: Complete Neighborhoods
 - Policy 2-3.7: Green neighborhoods that integrate open space, parks, trees and natural features into Fremont’s neighborhoods to enhance their visual quality and improve access to nature and recreation.
- Goal 2-6: Open Space
 - Policy 2-6.4: Parks should be recognized as fundamental to Fremont’s quality of life, and should be carefully managed to create balance between passive and active open space.

Parks and Recreation General Plan Goals/Policies

- Goal 8-1: A wide Range of Parks and Recreational Facilities
 - Policy 8-1.1: Parks and Recreational Facility Guidelines to develop parks and recreation facilities consistent with the standards and guidelines in the General Plan and the Parks and Recreation Master Plan.

- Policy 8-1.3: Standards for New Parks and Recreation Facilities to acquire and develop new park lands and recreational facilities consistent with City standards

Parks and Recreation Implementation Actions:

- Implementation 8-1.3.C: Land banking to consider purchasing land or accepting land dedication suitable for future park and recreational uses when the land becomes available (“land banking”), even if there are insufficient funds to develop and maintain facilities at the time.

Park and Recreation Master Plan – Criteria for Selecting Park Sites: The 14.6 acre site at Isherwood Way is consistent with the Park and Recreation Master Plan Criteria for Selecting Park Sites in the following ways:

1. **Physical Configuration:** The site is slightly irregular in configuration and is a long rectangle, wide at the front and narrowing toward the rear away from Isherwood Way. The site is essentially level with one small grove of Eucalyptus trees of substantial size toward the rear. A range of recreational improvements could be built according to the development standards for neighborhood parks included in the General Plan.

Staff comment: The site configuration is appropriate for the acquisition and development as a neighborhood park.

2. **Topography:** The Criteria for Site Selection require new city parks to have an average slope gradient no greater than 5% to provide flat, usable recreation spaces. This property is generally flat; thus, site topography would not preempt development to the City standards for neighborhood parks.

Staff comment: the site topography is well suited to park development.

3. **Encumbrance:** The site is not encumbered with easements which would preclude park development. No power lines are situated on the site. The site is in a liquefaction zone, which requires structural design review for structures. The area is not in a Flood Zone.

Staff comment: The site is not encumbered with any easements or other restrictions that would prevent development of the site as a neighborhood park.

4. **Access:** The site has good access from a local and citywide perspective. Primary access to the site is from Isherwood Way, which connects to Paseo Padre Parkway to the west and Quarry Lakes Drive to the east. The frontage of the park on Isherwood Way is improved with sidewalk curb and gutter making it accessible to pedestrian and bicycle traffic. The site has an existing bike path that connects to the Alameda Creek trail. The site is located on pedestrian and bicycle networks that connect to adjacent neighborhoods.

Staff comment: The site provides safe and convenient access for local residents.

- 5. Environmental constraints:** The land was dedicated to the city in 1972 from the adjacent development and has remained undeveloped since. Any park development proposal will be accompanied with an analysis for substances incompatible with a public park and mitigated within the project. Prior use of this site is agricultural, typical of most of Fremont and there is no knowledge of any uses on the site that would have used hazardous materials.

Staff comment: The site is not known to be constrained by hazardous materials or unsafe environmental conditions, but future park development will be accompanied by detailed review of site conditions and necessary mitigations incorporated into the project design.

- 6. Compatibility with Surrounding Land Uses:** Existing land uses adjacent to the site are:
To the north: Alameda Creek Channel and Union City beyond.
To the south: Isherwood Way and Quarry Lakes Regional Park beyond.
To the east: Alameda Creek Channel and Union City beyond.
To the west: Residential.

Dedication of the site to park land as a neighborhood park would be consistent with the historic development pattern throughout Fremont, where parks are located within residential areas. The adjacent Alameda Creek Channel provides a passive setting for the neighborhood park. Quarry Lakes Regional Park is a compatible use to the proposed neighborhood park, and provides regional park facilities such as fishing and swimming in the lakes.

Staff comment: Dedication and development of this site for a park would be compatible with all the existing land uses in the area.

- 7. Maintenance Impacts:** The size, shape and general physical characteristics of the site would not create maintenance impacts disproportionate to the benefit provided to the community by a new park at this location. Per City Council policy, all new park development is required to have a funding plan for ongoing maintenance.

Staff comment: Dedication and development of this park would not create undue maintenance impacts on the City's park system under current policy.

- 8. Capital Improvements, Operations, and Supervision Costs:** The development of this park could be funded with Park Facilities fees, which are intended for this purpose. The actual costs of operations and supervision will be considered in more detail during design development.

All public utilities (electric, water, storm drainage, and sanitary sewer) are available to the site. Depending on the final site design of the park, some or all of the utility services will need to be extended into the site upon development.

Staff comment: Costs of capital improvements, operations and supervision can be addressed in the City's standard operational and capital budget processes.

Public Meetings: Staff will host at least two community meetings if the City Council adopts the resolution of intent. The meetings will be to explain the proposal and solicit comment for the community. One meeting is proposed for the Palm Avenue neighborhood and another meeting is proposed for the Isherwood Way neighborhood. These meetings will be held before City Council considers final action on the changes in parkland designation for both sites.

Future Parcel Maps and General Plan Designation: Both the Isherwood site and the Palm Avenue site are comprised of multiple parcels that will need to be resolved through the recording of new Parcel Maps.

On Palm Avenue, two of the six parcels extend across the proposed property split. Staff proposes to return to City Council in late 2013 should they approve the change in park designation, with a new Parcel Map to properly combine the properties into two distinct parcels.

The Isherwood site is comprised of five parcels. The proposed park dedication includes one parcel that extends into the proposed East West Connector right of way. Also, three parcels extend across Isherwood Way and into the Quarry Lakes Park site. Lastly, one parcel is subject to a further study and understanding of the exact city limit location between Union City and Fremont at this site. Staff proposes to return to City Council in late 2013 should they approve the change in park designation, with a new Parcel Map to combine parcels and resolve the city limit location.

Four parcels on the Isherwood site are designated Open Space, and one parcel is designated residential on the General Plan. Staff proposed to return to the City Council in late 2013 should they approve the change in park designation, with a General Plan amendment to designate the one parcel Open Space.

Environmental Review: Environments review is currently underway with the Planning Division staff and will be presented to City Council with the consideration of the parkland dedication for Isherwood. Staff projects that this land dedication will result in a Negative Declaration. Additional environmental impact assessment will be required concurrent with the preparation of a site development plan for the park. This process will include the opportunity for public agencies and members of the community to provide comments.

Summary: The Isherwood Way site represents an opportunity for the City to use undevelopable property for park land, whose assets, such as proximity to neighborhoods, connection to the Citywide bicycle trail network, natural setting along the Alameda Creek Channel, flat topography, accessibility, and lack of environmental and regulatory factors that limit park development, would support the development of a new neighborhood park to serve the surrounding neighborhoods.

The designation of a park at Isherwood Way would increase the City's overall park land inventory by 9.6 acres when accounting for the loss of 7 acres at Palm Avenue. Although, the existing 19.8

acres at Palm Avenue allows for a much larger and broader community serving facility, a better site for a large scale community park exists at Pacific Commons. Reducing the Palm Avenue site to 13 acres would still provide space to develop a less intense park better suited to the neighborhood. In addition, the proposed new park land at Isherwood Way increases the park inventory of 7.6 acres and provides one new park to the citywide park system.

ENCLOSURES:

- Exhibit A: Palm Avenue Site
- Exhibit B: Isherwood Way Site

RECOMMENDATION:

1. Recommend City Council move forward with abandonment proceedings of 7 acres of park land at the Palm Avenue park site as shown in Exhibit A.
2. Recommend the City Council find that the land at Isherwood Way shown in exhibit B conforms to the Criteria for Selection of Park Sites in the City's General Plan.
3. Recommend the City Council dedicate 14.6 acres as park land at the Isherwood Way site as shown in Exhibit B.

7.2 INFORMATION REPORT REGARDING THE STATUS OF THE PARKS COST AND SCOPE CONTINGENCY PROJECT, PWC 8101.

Review of the Parks Cost and Scope Contingency Project, PWC 8101.

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Executive Summary: This report summarizes proposed expenses from the Parks Cost and Scope Contingency Project, PWC 8101 (Parks Contingency Reserve) and invites comment from the Recreation Commission related to the proposed expenses. Staff is preparing to recommend the City Manager authorize the transfer of \$50,000 from the Parks Cost and Scope Contingency Project to the Skate Park Project, PWC 8672 to offset unanticipated expenses on the Skate Park Project. The Transfer is proposed from Park Facility Impact Funds, which will have a balance of \$334,646 after the \$50,000 transfer to the Skate Park.

Background: In each adopted Capital Improvement Program (CIP), the City maintains a contingency reserve for each capital project fund group, including the parks fund group. The reserve is funded in an amount equal to five percent of the total project construction amounts

funded in each fund group during each year of the five-year CIP. The City Manager has the authority to approve the use of this reserve in increments of up to \$50,000 to cover project contingencies. Amounts above \$50,000 for any individual project require City Council approval. This contingency is available to projects if the project budget exhausts its project contingency reserve. Any unused portion of the reserve is used to fund this reserve in future CIP updates. The current balance of the Parks Facility Impact Funds is \$384,646 and the balance of the Park Dedication Funds is \$22,500 for a total Park Contingency Reserve of \$407,146.

Past use of the Parks Contingency Reserve: It is not common for the Community Services Department to use this Contingency Reserve, and therefore has not proposed significant contributions in the current proposed CIP, which is scheduled for City Council adoption in June, 2013. The most recent transfers out include a March, 2009 transfer of \$15,000 to the Water Park Project and a 2005 transfer of \$32,500 to the Niles Community Park Tiny Tots project.

Proposed Transfer to the Skate Park Project: The City opened bids for the Skate Park Project on May 1, 2012. The lowest bidder, Star Construction presented a bid that was later awarded by City Council, in the amount of \$1,405,290. The bid from Star Construction was \$227,900 less than the second low bid. Star Construction's bid documents were in order and the bid amount was within the budget the City had estimated for the project. The City has experience with Star Construction from other projects, such as Niles Town Square and the Annual Sidewalk Repair Program. Both projects suffered time delays and inefficiencies costing the City substantial additional staff time to manage the project. In the hopes of heading off any similar inefficiency on the Skate Park Project, the City assigned additional staff resources to the project to keep the project on track. The City's efforts have been helpful to quickly resolve technical and procedural problems on the project, but could not compensate for the contractor's inability to complete the work within the contract period of six months.

The Skate Park Project began construction in July 2012 and immediately suffered a delay resulting from a legal dispute between the General Contractor and the listed Electrical Contractor (subcontractor). The project continued to experience delays as the contractor requested help interpreting the fairly complex grading and layout associated with the construction of a skate park. The contractor elected to not hire a licensed surveyor, so when the project experienced layout problems between skate features, the City elected to bring the City Surveyor out to perform extensive survey/layout work to keep the project moving in a timely manner. The Plans did have an error in the layout, but the contractor was never able to find the minor error on his own. The City and the Contractor continue to discuss the financial responsibility associated with this work as well as the financial loss to the city associated with the overall project delay. The example of project delay demonstrated by the survey work has been repeated on smaller tasks throughout the project, where the City has spent resources to help the contractor interpret the plans and develop solutions, all with the expressed interest to keep the project moving.

The Skate Park Project is moving forward with an estimated completion of May, 2013, which is three months later than the original completion of February, 2013, accounting for approved weather delays. The additional staff expenses on the project for the additional three months as well as additional resources during construction necessitate the need to augment the budget by

\$50,000 from the Park Contingency Reserve. The transfer from the Park Contingency Reserve will leave a balance of \$357,146 for future park project needs.

The Skate Park Project need for an additional \$50,000 is recognition of the substantial additional time required on this project due to the inefficiencies of the contractor. The City is obligated by State contract law to award to the lowest bidder when all bid documents are in order and the contractor is a responsible contractor according to the State licensing board. If the City had the authority to reject the contractor at the time of bid opening due to past inefficient construction practices (which it does not), the City would have had to award to the second low bidder, which was \$227,900 more than the low bid. Awarding the second bid would have necessitated adding substantially more money to the skate park project than the current request of \$50,000.

Environmental Review: None

ENCLOSURES: None

RECOMMENDATION: Receive report and comment.

8. WRITTEN COMMUNICATIONS

9. COMMISSION REFERRALS

10. COMMISSION AND STAFF COMMUNICATIONS

11. ADJOURNMENT